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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,918	03/08/2001	Zhenhua Yang	198197US11PC	3508

22850 7590 05/07/2003

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[REDACTED] EXAMINER

LANKFORD JR, LEON B

ART UNIT	PAPER NUMBER
1651	( )

DATE MAILED: 05/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT      PAPER

11

DATE MAILED:

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Commissioner of Patents and Trademarks

This application is in condition for allowance except for the presence of non-elected subject matter. Applicant has overcome the 112 rejection and the elected invention (that corresponding to Group III and *Stenotrophomonas*) is free of the prior art and would be allowable if properly claimed. Currently, claim 64 written in independent form would be allowable. Restriction was made under 35 USC 121 & 372 because the species lack a single general inventive concept as required by PCT Rule 13.1. Subject matter beyond that elected has been withdrawn from consideration and must now be canceled.

Applicant has suggested that examination should not be limited to the elected invention. There is no unity of invention which would require the examination of the non-elected subject matter. That would require the presence of a special technical feature between the different species that defines over the prior art. There is no such special technical feature: Applicants' technical feature (as argued on page 10 of paper #8), i.e. the existence or microbial production of an "at least one terminally methyl-branched iso or anteiso-fatty acid" is not novel. There is no unity of invention between the claimed species because there is no special technical feature and unity lacking, restriction is proper.

PCT 13.2

Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel the noted claims by Examiner's Amendment and pass the case to issue. Extensions of time under 37 CFR 1.136(a) will not be permitted since this application will be passed to issue.

The prosecution of this case is closed except for consideration of the above matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to L Blaine Lankford whose telephone number is 308-2455.

The examiner can normally be reached on Mon-Thu 7:30-6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Wityshyn can be reached on 308-4743. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0196.

LEON B. LANKFORD, JR.  
PRIMARY EXAMINER